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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,144	07/31/2003	Jason S. Fairbanks	18645	2240

23556 7590 07/19/2004

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EXAMINER

EDWARDS, NEWTON O

ART UNIT PAPER NUMBER

1774

DATE MAILED: 07/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/631,144

Applicant(s)

FAIRBANKS ET AL.

Examiner

N Edwards

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 1-15 and 22-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-19 and 21 is/are rejected.
- 7) ☒ Claim(s) 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

In a telephone interview on June 28, 2004 with Robert Ambrose, he elected copolyester for the species of claim 18 in accordance with the election of species requirement.

Applicant urges that 1) because the groups are so closely related, full consideration of one Group would consist of a search, which includes the other Groups.

Simply stated, applicant has failed to state how the groups related to one another and what is this search that include the other Groups in full consideration of one Group.

Applicant concludes that 2) Group IV a non-woven and Group III are not mutually exclusive species since the non-woven dependent of the fiber.

On one hand, Applicant wants, for restriction purposes, Group IV and Group III together. On the other hand, for examination purposes, applicant admission that groups are not mutually exclusive should not be used in rejection against applicant. The restriction clearly shows serious confusion on the Examiner by the different classification (442 and 428) and fiber intermediate product lose its identity in the final product.

Applicant urges that 3) Group I process should be rejoined with Group III fiber upon allowability of Group III.

Only if the process claims include all the limitations of the allowable product will the process be rejoined. See MPEP 821.04. The rejection is deemed proper for reason of record and hereby made FINAL.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 16, 17, 19 and 21 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Pike (US 5,721,180).

Pike, a Kimberly Clark Patent, teaches a filter medium comprising crimp multi-component bi-component filaments of polyethylene and polypropylene. Pike further teaches the polypropylene is 50% wt and contains 50% wt TiO₂. See example and column 2, lines 12 and 47. Pike still further teaches the filaments can be in a side-by-side arrangement or eccentric sheath core. Note TiO₂ is the dielectrically susceptible material.

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 16, 17, 18 and 21 are rejected under 35 U.S.C. 102(a or e) as being clearly anticipated by Lintecum (US 6,548,429).

Lintecum teaches a yarn comprising bi-component yarn filaments in a side-by-side configuration having a first and second component, which can be polyamide, polyolefin's, polyethylene, polypropylene, and polyester and copolymers (which includes

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copolyester). Lintecum further teaches the bi-component filament can be arranged in an eccentric sheath core (or side-by-side) and have crimps. See column 3, lines 20-39. Lintecum also teaches the bi-component filament may contain carbon black or titanium oxide in the filament of the yarn. See column 5, line 33 and column 19, line 59 for example.

Claim 20 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

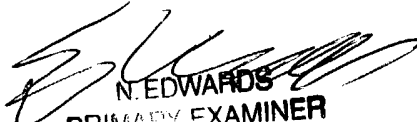
Any inquiry concerning this communication from the examiner should be directed to Examiner Edwards whose telephone number is (571) 272-1521. The examiner can generally be reached on Monday-Friday from 6:00 am to 2:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia Kelly can be reached on (571) 272-1526. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

N. Edwards/dh
July 7, 2004



N. EDWARDS
PRIMARY EXAMINER